

PRELIMINARY DRAFT FOR DISCUSSION PURPOSES ONLY (12-31-18)

PLEASE NOTE: Draft revisions shown in track changes.

III-2 Use Regulations Schedule

No building, structure or land shall be erected or used except as permitted in this section and all other sections of these Zoning Bylaws. No more than one principal structure or dwelling may be erected on a lot. ([Discuss Cultivation in Rural District – more than one principal use/structure?](#))

Symbols employed in the following use regulations schedule shall have the following meaning:

Y – Yes, the use is permitted by right in that Zoning District

N – No, the use is not permitted in that Zoning District

SP – The use may be permitted if a Special Permit is granted by the Zoning Board of Appeals

SPP – The use may be permitted if a Special Permit is granted by the Planning Board

SPR – The use is permitted subject to Site Plan Review by the Planning Board

Use	Village Districts	Rural District	Commercial - Industrial Districts
Residential Uses			
Single-Family Dwelling	Y	Y	Y
Two-Family Dwelling	SPR	SPR	SPR
Accessory Apartment	Y	Y	Y
Mobile Home Parks	N	N	N
Multi-family Dwelling (3-6 dwellings)	SPR	N	SPR
Multi-family Dwelling (more than 6 dwellings)	SP	N	SP
Agricultural & Recreational Uses			
Farming or Forestry <u>does not include Marijuana Cultivation</u>	Y	Y	Y
Commercial Greenhouses on lots equal to or greater than 5 acres <u>does not include Marijuana Cultivation</u>	Y	Y	Y
Commercial Greenhouses on lots less than 5 acres <u>does not include Marijuana Cultivation</u>	SP	SP	SP
Commercial Recreation	N	SP	N
Wildlife Preserve or Other Conservation Uses	Y	Y	Y
Community Services			
Public Utility Facility	SP	SP	SP
Wireless Communication Facilities	SPP	SPP	SPP
Educational Uses exempted from zoning regulation by M.G.L. Ch.40A, Section 3	Y	Y	Y
Other Educational Uses not exempted from zoning regulation by M.G.L. Ch.40A, Section 3	SP	SP	N
Church, other Religious Use	Y	Y	Y
Municipal Uses not covered elsewhere	SP	SP	SP

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Family Day Care Home for 6 or less children or adults	Y	Y	Y
Family Day Care Home for more than six children or adults	SP	SP	SP
Day Care Center for children exempted from zoning regulations by M.G.L. Ch. 40A, Section 3	Y	Y	Y
Nursing Home, Assisted Living Facility	SP	SP	N
Use	Village Districts	Rural District	Commercial - Industrial Districts
Business Uses			
Business, Professional Offices with less than 6 employees	SPR	SPR	SPR
Business, Professional Offices with 6 or more employees	SP	SP	SP
Banks	SPR	N	SPR
Standalone Automated Teller Machines (ATM)	N	N	SP
Conversion of Historic Industrial or Commercial Structure to Mixed Uses	SPR	SP	SPR
Restaurant, drive through	N	N	N
Restaurant, other	SPR	SP	SP
Seasonal food service	SPR	SP	SP
Retail Store(s) <u>except for Marijuana Retailer</u> – Building 3,000 sq. ft. or less of enclosed floor space ¹	SPR	N	SP
Retail Store(s) <u>except for Marijuana Retailer</u> – Building greater than 3,000 sq. ft. up to 12,000 sq. ft. of enclosed	SP	N	SP
<u>Marijuana Retailer Store – Building up to 5,000 sq. ft.</u>	<u>SP</u>	<u>N</u>	<u>SP</u>
Flea Markets	SP	N	SP
Artisan Studios	Y	Y	Y
Motor Vehicle Sales	N	N	SP
Laundry, Laundromat	SP	N	SP
Theaters	SP	SP	SP
Hotels	SPR	N	SPR
Motels	SP	N	N
Inns	SPR	SP	SP
Bed and Breakfast, up to 6 bedrooms ²	SPR	Y	N
Building Materials, Sales & Storage	SP	SP	SPR
Home Based Business	Y	Y	Y
Funeral Home	SP	SP	SP
Equipment Rentals	SP	SP	SPR

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Kennels	N	SP	SP
Farm Stand	Y	Y	Y
Business Uses not listed above, other than retail uses, where the physical appearance, operation, parking requirements and traffic impacts resemble a use permitted (Y, SPR, or SP) above and which will not have a detrimental impact on adjacent or nearby uses	SP	SP	SP

Use	Village Districts	Rural District	Commercial - Industrial Districts
Industrial Uses			
Junk yards, dumps, and landfills	N	N	N
Light Industrial Uses	N	N	SP
Freight or Transportation Facilities	N	N	SP
Gasoline Station, Automotive Repair Garages	SP	SP	SP
Quarrying, Gravel Mining & Earth Removal	N	SP	SP
Collection, treatment, storage, burial, incineration or disposal of radioactive waste, including but not limited to low level radioactive waste	N	N	N
Sawmill	N	SP	SP
Bulk Storage, Warehousing	N	SP	SP
<u>Marijuana Cultivator in new or existing building(s) up to 10,000 square feet with no greater than 20,000 square feet of total enclosed floor area on a tract of land, defined as a lot or several contiguous lots in single ownership.⁵</u>	<u>N</u>	<u>SP</u>	<u>SP</u>
<u>Marijuana Cultivator in new or existing building(s) up to 10,000 square feet with greater than 20,000 square feet up to 40,000 square feet of total enclosed floor area on a tract of land, defined as a lot or several contiguous lots in single ownership.</u>	<u>N</u>	<u>N</u>	<u>SP</u>
<u>Marijuana Processing and/or Product Manufacturing</u>	<u>N</u>	<u>N</u>	<u>SP</u>
<u>Marijuana Independent Testing Laboratory or Research Facility</u>	<u>N</u>	<u>N</u>	<u>SP</u>

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Photovoltaic System with a footprint greater than 0.10 acres up to 1.0 acres ^{3,4} (See Section XV)	SPR	SPR	SPR
Large-Scale Ground-Mounted Solar-Photovoltaic System with a footprint greater than 1.0 acres ^{3,4} (See Section XV)	N	SP/SPR	SP/SPR

1 - Outdoor storage, sales or display associated with any retail use requires Site Plan Review (see Section XIII). (Added May 9, 2012)

2 - Prior to opening a Bed & Breakfast establishment the building must be inspected by the Building Inspector to ensure compliance with the State Building Code including requirements related to fire safety. Please contact the Building Inspector if you are considering opening this type of business to learn about these Building Code requirements. (Added June 23, 2008)

3 - Smaller scale ground-mounted solar-photovoltaic systems (occupying a footprint less than or equal to 0.10 acres and building-mounted solar-photovoltaic systems do not need to comply with Section XV, but shall require a building permit and must comply with all other applicable local, state, and federal requirements.

4 - Acreage thresholds apply in the aggregate to new facilities and expansion of existing facilities. For expansions, the acreage of the existing facility would be added to those of the proposed expansion to determine the overall size and generating capacity. Required setback areas, as per Section XV - 3(b)(1), shall not be counted toward a facility's total acreage.

5 – Building used for Marijuana Cultivation in the Rural District shall resemble local agricultural buildings, such as barns or greenhouses.

SECTION VI: INTENSITY REGULATIONS

VI-1 Lot Area

Any principal building or dwelling unit, including mobile homes, hereafter erected or placed in the Town of Colrain, and any use conducted in the Town shall be located on a lot having no less than the minimum requirements set forth in the table below. No more than one residential structure shall be erected upon any such lot. No existing lot shall be changed as to size or shape so as to result in the violation of the requirements set forth below.

VI-2 Dimensional Schedule

	Minimum Area (a)	Minimum Frontage in feet (b)	Front in feet (c)(d)(e)	Side in Feet (d)(e)	Rear in feet (d)(e)	Maximum Height in feet	Maximum Lot Coverage
Village Districts	20,000 sq. ft.	100	30	15	30	35	70%
Rural Districts	1 1/2 acre	300	50	40	40	35	25%

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Commercial-Industrial Districts	2 acres	300	50	50	50	45	50%
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- (a) Any lot in a village district having a two-family dwelling structure shall provide not less than 30,000 square feet of land.
- (b) A lot or parcel of land having an area or a frontage of lesser amounts than required by this Bylaw may be considered as coming within the area or frontage requirements of this Section, provided such a lot of parcel of land was shown on a plan or described in a deed duly recorded or registered at the time of the adoption of the Bylaw and did not at the time of such adoption adjoin other land of the same owner available for use in connection with this parcel.
- (c) To be measured from the right-of-way line where a plan of the way is on file with the Registry of Deeds or, in the absence of such a plan from a line twenty-five (25) feet from and parallel to the center line of the traveled way.
- (d) All Large-Scale Ground-Mounted Solar-Photovoltaic Systems shall have front, side, and rear yard setbacks of at least 50 feet, pursuant to the requirements of Section XV-3(b)(1). Required setback areas shall not be counted toward a facility's total acreage.
- (e) All Marijuana Establishments shall have front, side and rear setbacks of at least 50 feet.

SECTION XII: SPECIAL PERMITS

- (a) Special permit granting authority. Unless specifically designated otherwise, the Board of Appeals shall act as the special permit granting authority.
- (b) Public hearings. Special permits may be issued only after a public hearing(s) is held within sixty-five (65) days after the applicant files a completed application with the Town Clerk and gives the special permit granting authority a copy of the said application noting the date and time of its filing with the Town Clerk.
- (c) Criteria. Special permits may be granted by the special permit granting authority only upon its written determination that the proposed use is in harmony with the general purpose and intent of this Zoning Bylaw and will not have adverse effects which overbalance its beneficial effects on either the neighborhood or the town, in view of the particular characteristics of the site and of the proposal in relation to that site. The determination shall take into consideration each of the following:
 - (1) Social, economic or community needs which are served by the proposal.
 - (2) Traffic flow and safety.
 - (3) Adequacy of utilities and other public services.
 - (4) Impacts on neighborhood character and historic and cultural resources.
 - (5) Protection of the natural environment.
 - (6) Potential fiscal impact.

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- (7) Attendance at public schools.
- (8) Positive employment consequences.
- (9) For manufacturing or industrial use, including processing, fabrication or assembly, no such use shall be permitted which would be detrimental or offensive or tend to reduce property values in the same or adjoining districts by reason of dirt, odor, fumes, gas, sewage, refuse, noise, excessive vibration, or danger of explosion or fire.

(10) For Marijuana Establishments, minimizing traffic, odor, noise, light pollution, energy use, and use or storage of hazardous materials.

(d) Conditions. Special permits may be granted with such reasonable conditions, safeguards or limitations on time or use as the special permit granting authority may deem necessary to serve the purposes of this Zoning Bylaw.

(e) Expiration. Special permits shall lapse twenty-four (24) months following special permit approval (plus such time required to pursue or await the determination of an appeal referred to in M.G.L. Ch. 40A, Sec. 17, from the grant thereof) if a substantial use thereof or construction has not begun, except for good cause.

SECTION XIII: DEVELOPMENT SITE PLAN REVIEW (added May 8, 2007; revised May 9, 2012)

- a) Purpose. The purpose of Site Plan Review is to ensure that new developments are designed in a manner which reasonably protects the environmental and scenic qualities of the neighborhood and the Town.
- b) Site Plan Review Process. The Site Plan Review process will be conducted by the Planning Board.
- c) Applicability. Site Plan Review shall be required for the following types of activities and uses:
 - 1. Cluster Developments (see Section VI-6);
 - 2. Outdoor storage, sales or display associated with any retail use;
 - 3. Construction, exterior alteration or exterior expansion of more than 1,000 square feet of, or change of use within a municipal, institutional, commercial, industrial, or multi-family structure;
 - 4. Construction or expansion of a parking lot for a municipal, institutional, commercial, industrial, or multi-family structure;
 - 5. Grading, clearing, or other land development activity EXCEPT for the following: single family residences, landscaping on a lot with an existing dwelling, clearing necessary for percolation and other site tests, work incidental to agricultural activity, or work in conjunction with an approved subdivision plan or earth removal permit;
 - 6. Any use listed in the Use Regulation Schedule (Section III-2) as requiring Site Plan Review.
- d) Procedures. An applicant for Site Plan Review shall file a completed application with the Town Clerk. The Town Clerk shall acknowledge receipt of the plans by signing and dating the application form. The application submitted to the Town Clerk shall include seven (7) copies each of an application form, Site Plan and any narrative documents as outlined in the submittal requirements.

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Upon receipt of the application, the Town Clerk shall transmit copies of the application to the Planning Board, Zoning Board of Appeals, Conservation Commission, the Board of Health, the Building Inspector, the Highway Superintendent, the Fire Chief and the Police Chief. In addition, the Town Clerk will notify the Historical Commission and Open Space Committee that a copy of the application is available for review at Town Hall. These Town Boards and municipal officials shall have 45 days from the date the completed application is received by the Town Clerk to report to the Planning Board their findings and recommendations, and they can attend the public hearing(s). No building permits for projects requiring Site Plan Review shall be issued until the Planning Board has approved the Site Plan or unless the required time period for taking action on a Site Plan has lapsed without action from the Planning Board. The applicant is also responsible for obtaining all applicable permits or approvals that may be required for the proposed development from other Town Boards or municipal officials.

- e) Public Hearing. The Planning Board shall hold a public hearing within 65 days after the filing of an application and shall take final action on an application for Site Plan Review approval within 90 days of the close of the public hearing. Notice and posting of the public hearing shall comply with the provisions of M.G.L. Chapter 40A, Section 11, regarding notice for public hearings. To the extent permitted by law, the public hearing should be coordinated with any other public hearing required for a definitive subdivision plan or a Special Permit.
- f) Required Contents of a Site Plan. All Site Plans shall be prepared by a registered architect, registered land surveyor, registered landscape architect, or professional engineer. A locus map at a scale of 1" = 100 feet shall be provided showing parcels and roads within 300 feet of the property line. The Site Plans shall be on standard sheets of 24 inches by 36 inches and prepared at a scale of 1" = 40 feet or finer. The Site Plan and accompanying narrative shall contain the following:
 - 1. Name of project, boundaries, locus map(s) showing site's location in Town, date, north arrow and scale of plan;
 - 2. Name(s) and address(es) of the owner(s) of the land, the developer (if applicable), and/or their designee;
 - 3. Name, title, and address of person(s) who prepared the plan;
 - 4. Names and addresses of all owners of record of abutting lots and those within 300 feet of the property line;
 - 5. All existing lot lines, easements and rights of way;
 - 6. Location and use of buildings and structures within 300 feet of the site;
 - 7. Location and use of all existing and proposed buildings and structures, including approximate height and floor area;
 - 8. Location and size in acres of wetlands on the site reviewed and approved by the Colrain Conservation Commission;
 - 9. The location and a description of all proposed septic systems, sewer connections, water supplies, storm drainage systems, utilities and other waste-disposal methods;
 - 10. Location and date of all registered "perc" tests on the site;
 - 11. Location of all proposed new lot lines;
 - 12. Existing and proposed topography at a two-foot contour interval for the proposed grading and landscape plan;
 - 13. Location of proposed public and private ways on the site;
 - 14. Location and size of proposed parking and loading areas, driveways, walkways, access and egress points;
 - 15. The location and a description of proposed open space or recreation areas;
 - 16. Size and location of existing and proposed sign(s);
 - 17. Surface drainage strategy that prevents increased drainage off-site or pollution;
 - 18. Existing vegetation that will be left undisturbed and proposed landscape features, including the location and a description of screening, fencing and plantings using noninvasive species;

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19. Design features which will integrate the proposed development into the existing landscape, maintain neighborhood character, and screen objectionable features from neighbors and roadways;
20. Estimated average daily and peak-hour vehicle trips to be generated by the site and traffic flow patterns for both vehicles and pedestrians, showing adequate access to and from the site and adequate circulation within the site.

g) Decision. The Planning Board's action shall consist of either:

1. Approval of the Site Plan based upon the determination that the proposed project is in compliance and consistent with the criteria set forth in this Bylaw;
2. Approval of the Site Plan subject to conditions, modifications, and restrictions as the Planning Board may deem necessary; or
3. Denial of the Site Plan based upon specific findings such as a determination that there was insufficient information submitted with the proposal to adequately review it or that the project is inconsistent with the requirements of these Zoning Bylaws.

The decision of the Planning Board shall be filed with the Town Clerk within 90 days of the close of the Public Hearing and the written record of the decision including any approved Site Plan shall be filed with the Town Clerk within 14 days of the final vote or sooner to meet the 90-day maximum time frame. A copy of any approved Site Plan and the decision of the Planning Board shall be sent by the Town Clerk to the Building Inspector and to the Registry of Deeds, where applicable.

- h) Administration and Waivers. The Planning Board may adopt and from time to time amend regulations for the submission and approval of Site Plans. The Planning Board may waive any of the requirements for Site Plan submittal and approval if the simplicity or scale of the project warrants such action. The Planning Board may also request any additional information it should need to render a decision. For large or complex projects, the Planning Board shall have the right to retain a registered professional engineer, planner, designer or other professional to advise the Board regarding any or all aspects of the Site Plan. The applicant shall be responsible for the costs of such advice.
- i) Compliance with Other Bylaws. The Site Plan shall comply with any zoning bylaws for parking, loading, dimensions, environmental controls and all other provisions of the Zoning Bylaw. Before approval of a Site Plan, the Planning Board may request that the applicant make modifications in the proposed design of the project to ensure that the above criteria are met.
- j) Review Criteria

The Planning Board's evaluation of the proposed Site Plan shall include, as appropriate, the following:

1. Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, pavement surfaces, dividers and traffic controls.
2. Adequacy and arrangement of pedestrian traffic access and circulation, pedestrian walkways, control of intersections with vehicular traffic and overall pedestrian safety and convenience.
3. Location, arrangement, appearance and sufficiency of off-street parking and loading.

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4. Location, arrangement, size, design and general site compatibility of buildings, lighting and signs in relation to the terrain and to the use, scale, and proportions of existing and proposed buildings in the vicinity.
 5. Selection and location of lighting fixtures so that they are pedestrian in scale, prevent light pollution of the night sky, and do not produce illumination beyond the property boundaries. Full cut-off down lighting fixtures that do not project light above the horizontal plane shall be used in all instances.
 6. Location of buildings to provide a solar and wind orientation which encourages energy conservation, if appropriate.
 7. Adequacy of landscaping to provide a visual buffer from abutting properties, to provide shade to improve energy efficiency during the summer months, and to improve the visual appearance of parking areas and the site in general.
 8. Findings of the Zoning Board of Appeals relative to whether approval of a proposed site plan, with or without conditions, modifications, or restrictions, would be contrary to the protection of the environmental or scenic characteristics of the neighborhood or the Town, or the avoidance of conditions likely to create a nuisance affecting abutting properties.
- k) Appeal. An appeal of a Site Plan Review Decision by the Planning Board shall be filed in a court of competent jurisdiction in accordance with M.G.L. Chapter 40A, Section 17.

SECTION VIII: DEFINITIONS

Home Based Business: See Section III-3. A Home Based Business does not include any Marijuana Establishment including Marijuana Cultivation, Marijuana Processing, Marijuana Product Manufacturing, or Marijuana Retailer Sales.

Craft Marijuana Cultivator Cooperative - a marijuana cultivator comprised of residents of the Commonwealth organized as a limited liability company or limited liability partnership under the laws of the Commonwealth, or an appropriate business structure as determined by the Cannabis Control Commission, that is licensed to cultivate, obtain, manufacture, process, package and brand marijuana and marijuana products for delivery to marijuana establishments but not to consumers.

Host Community Agreement – An agreement, pursuant to General Laws, Chapter 94G, Section 3(d), between a Marijuana Establishment and a municipality setting forth conditions for the operation of a Marijuana Establishment in the municipality.

Independent Testing Laboratory - a laboratory that is licensed by the State Cannabis Control Commission and is: (i) accredited to the most current International Organization for Standardization 17025 by a third-party accrediting body that is a signatory to the International Laboratory Accreditation Cooperation mutual recognition arrangement or that is otherwise approved by the Commission; (ii) independent financially from any medical marijuana treatment center or any licensee or marijuana establishment for which it conducts a test; and (iii) qualified to test marijuana in compliance with regulations promulgated by the Cannabis Control Commission.

Licensee - a person or entity licensed by the State Cannabis Control Commission to operate a marijuana establishment.

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Marijuana Cultivator - an entity licensed to cultivate, process and package marijuana, to deliver marijuana to marijuana establishments and to transfer marijuana to other marijuana establishments, but not to consumers.

Marijuana Establishment – a marijuana cultivator, independent testing laboratory, marijuana product manufacturer, marijuana retailer or any other type of marijuana-related business licensed by the Commonwealth of Massachusetts except a medical marijuana treatment center.

Marijuana Product Manufacturer – an entity licensed to obtain, manufacture, process and package marijuana and marijuana products, to deliver marijuana and marijuana products to marijuana establishments and to transfer marijuana and marijuana products to other marijuana establishments, but not to consumers.

Marijuana Products – products that have been manufactured and contain marijuana or an extract from marijuana, including concentrated forms of marijuana and products composed of marijuana and other ingredients that are intended for use or consumption, including edible products, beverages, topical products, ointments, oils and tinctures.

Marijuana Research Facility – an entity licensed to engage in research projects by the State Cannabis Control Commission.

Marijuana Retailer – an entity licensed to purchase and transport marijuana and marijuana products from marijuana establishments and to sell or otherwise transfer marijuana and marijuana products to marijuana establishments and to consumers.